

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

2012 OCT 17 PM 1:44

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY FLV DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

YOLANDA HERNANDEZ (1)
MICHAEL GUTIERREZ (2)
ARNOLDO LOPEZ (3)

Defendants.

) CRIMINAL NO.

) **SA 12CR**

) INDICTMENT

944

OG

) **CT 1:** 21:841(a)(1); 18:2- Possession

) of a Controlled Substance with

) Intent to Distribute, Aiding and Abetting;

) **CT 2:** 18:924(c)(1), 2-Possession of firearm

) in furtherance of a drug trafficking offense,

) Aiding and Abetting;

) **CT 3:** 21:846 & 841(a)(1)- Conspiracy to

) Possess a Controlled Substance with

) Intent to Distribute;

) **CTS 4&5:** 18:922(g)(1)-Felon in

) Possession of a Firearm

THE GRAND JURY CHARGES:

COUNT ONE

(21 U.S.C. §§ 841(a)(1) & 841(b)(1)(B)(iii); 18 U.S.C. 2)

That on or about October 4, 2012, in the Western District of Texas, Defendants,

YOLANDA HERNANDEZ (1)
MICHAEL GUTIERREZ (2)
ARNOLDO LOPEZ (3)

knowingly and intentionally possessed, and aided and abetted the possession, with intent to distribute a controlled substance, which offense involved 28 grams or more of a mixture or substance containing a detectable amount of cocaine base, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B)(iii) and Title 18, United States Code, Section 2.

COUNT TWO

(18 U.S.C. §§ 924(c)(1), (2))

Beginning on or about October 4, 2012, in the Western District of Texas, Defendants,

YOLANDA HERNANDEZ (1)
MICHAEL GUTIERREZ (2)
ARNOLDO LOPEZ (3)

did knowingly carry and use, and did aid and abet the use and carrying of, a firearm(s), that is a Springfield Model XD-45 .45 caliber handgun, serial number US639419 and a Winchester 1300 Defender 12 gauge shotgun, serial number 12854753, during and in relation to the drug trafficking crimes charged in Count One of this Indictment, re-alleged herein, and did possess, and did aid and abet the possession of said firearm(s) in furtherance of said drug trafficking crime, contrary to Title 18, United States Code, Sections 924(c)(1) and 2.

COUNT THREE

(21 U.S.C. §§ 846 & 841(a)(1) & 841(b)(1)(B)(iii))

That beginning on or about October 4, 2012, in the Western District of Texas, Defendants,

YOLANDA HERNANDEZ (1)
MICHAEL GUTIERREZ (2)
ARNOLDO LOPEZ (3)

knowingly, intentionally, and unlawfully conspired, combined, confederated, and agreed with others to the Grand Jury unknown, to commit offenses against the United States, in violation of Title 21, United States Code, Section 846, that is to say, they conspired to possess a controlled substance, which offense involved 28 grams or more of a mixture or substance containing a detectable amount of cocaine base, a Schedule II Controlled Substance, with intent to distribute same, contrary to Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B)(iii).

COUNT FOUR

(18 U.S.C. § 922(g)(1))

That on or about October 4, 2012, in the Western District of Texas, Defendant,

ARNOLDO LOPEZ (3)

having been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce a firearm, to-wit: Springfield Model XD-45 .45 caliber handgun, serial number US639419, and ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

COUNT FIVE
(18 U.S.C. § 922(g)(1))

That on or about October 4, 2012, in the Western District of Texas, Defendants,

YOLANDA HERNANDEZ (1)
MICHAEL GUTIERREZ (2)

having been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce a firearm, to-wit: Springfield Model XD-45 .45 caliber handgun, serial number US639419, a Winchester 1300 Defender 12 gauge shotgun, serial number 12854753, a Sig Sauer, 5.56 caliber NATO assault rifle, serial number JT004707, a Maverick 12 gauge shotgun, serial number MV94863B, and ammunition, in violation of Title 18, United States Code, Section 922(g)(1).

NOTICE OF UNITED STATES OF AMERICA'S DEMAND FOR FORFEITURE

I.

Firearms Violations and Forfeiture Statutes

[Title 18 U.S.C. § 924(c)(1) and Title 18 U.S.C. § 922(g)(1); subject to forfeiture pursuant to Title 18 U.S.C. § 924(d)(1), made applicable by Title 28 U.S.C. § 2461; see Fed.R.Crim.P. 32.2]

A. Title 18 U.S.C. § 924(c)(1) violation

As a result of the foregoing criminal violation set forth in Count Two which is punishable by imprisonment for more than one year, Defendants YOLANDA HERNANDEZ (1), MICHAEL GUTIERREZ (2), and ARNOLDO LOPEZ (3), shall forfeit any and all of their

right, title and interest to the United States in the properties described in Paragraph II pursuant to Fed. R. Crim. P. 32.2 and Title 18 U.S.C. § 924(d)(1), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461.

B. Title 18 U.S.C. § 922(g)(1) violation

As a result of the foregoing criminal violations set forth in Counts Four and Five, which are punishable by imprisonment for more than one year, Defendants YOLANDA HERNANDEZ (1), MICHAEL GUTIERREZ (2), and ARNOLDO LOPEZ (3), shall forfeit any and all of their right, title, and interest in the properties described in Paragraph II to the United States of America pursuant to Fed. R. Crim. P. 32.2 and Title 18 U.S.C. § 924(d)(1), made applicable to criminal forfeiture by Title 28 U.S.C. § 2461.

Title 18 U.S.C. § 924(d)(1) states the following:

Title 18 U.S.C. § 924.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of . . . subsection (g) of section 922, or knowing violation of section 924, . . . shall be subject to seizure and forfeiture . . .

This Notice of Demand for Forfeiture includes but is not limited to the property described below in Paragraph II.

II.
Personal Property

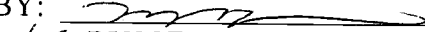

- a. Springfield Model XD-45 .45 caliber handgun, serial number US639419;
- b. Winchester 1300 Defender 12 gauge shotgun, serial number 12854753;
- c. Sig Sauer, 5.56 caliber NATO assault rifle, serial number JT004707;
- d. Maverick 12 gauge shotgun, serial number MV94863B; and
- e. all ammunition.

A TRUE BILL.

[REDACTED]

FOREPERSON OF THE GRAND JURY

ROBERT PITMAN
UNITED STATES ATTORNEY

BY: 
 RUSSELL D. LEACHMAN
Assistant U.S. Attorney